

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

| | | |
|---------------------------|---|----------------------|
| UNITED STATES OF AMERICA, |) | |
| Plaintiff, |) | Docket No. 08 CR 513 |
| vs. |) | |
| LASHAWN LITTRICE, |) | Chicago, Illinois |
| Defendant. |) | August 5, 2009 |
| |) | 12:10 a.m. |

TRANSCRIPT OF PROCEEDINGS - Motion
BEFORE THE HONORABLE REBECCA R. PALLMEYER

APPEARANCES:

For the Plaintiff: HON. PATRICK J. FITZGERALD
UNITED STATES ATTORNEY
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1 THE CLERK: 08 CR 513, United States versus LaShawn
2 Littrice for a pretrial conference.

3 MS. JOHNSON: Good morning, your Honor.

4 Lela Johnson and Bob Milan on behalf of the United
5 States.

6 MR. MURPHY: Good afternoon, your Honor.

7 William P. Murphy with my client, LaShawn Littrice.

8 THE DEFENDANT: Good morning.

9 LaShirah El Bey.

10 MR. MURPHY: LaShirah El Bey. She has had her name
11 changed.

12 Judge, things are not going too well. Mrs. El Bey
13 wishes to address the Court.

14 THE COURT: Well, Ms. El Bey, let me remind you
15 that you are not required to make any statements. And you
16 are not required to make any comments at all because the
17 government has the burden of proof. And if the government
18 fails to meet the burden of proof, regardless of whether you
19 say anything, you will be acquitted.

20 Anything you do say can be used against you. You
21 understand that, I am sure. Is that right?

22 THE DEFENDANT: Yes.

23 THE COURT: And you still wish to make a statement?

24 THE DEFENDANT: Yes.

25 THE COURT: Proceed.

1 THE DEFENDANT: Your Honor, for the record, when we
2 were here last, on July 20th, my attorney was not present.
3 You and I discussed some questions that I had. And according
4 to the transcript, which I ordered a copy of, you said that
5 you would get back to me on the items that I requested that
6 were never given to me.

7 One of those items were the true bills. I have a
8 copy of the indictment charge, but this is not a true bill.
9 I also --

10 THE COURT: I am sorry, Ms. El Bey. Maybe I
11 miscommunicated.

12 When I use the expression "true bill," I use that
13 as a synonym for indictment. So I wouldn't have expected to
14 provide you with anything other than the indictment.

15 THE DEFENDANT: Okay. So is it possible that I can
16 get a copy of what a true bill looks like? That's what I
17 asked on the last hearing.

18 THE COURT: The only thing I can provide you in
19 that regard would be the indictment. So if you don't have
20 the indictment, certainly you are entitled to that.

21 THE DEFENDANT: I do have a copy of the indictment.

22 THE COURT: There would be nothing else that we
23 would provide with respect to that.

24 THE DEFENDANT: We also discussed the CUSIP number.

25 THE COURT: Right. And I told you then -- I will

1 have to repeat this -- I don't know what a CUSIP number is,
2 so I can't give you that.

3 THE DEFENDANT: Okay. I thought you said that you
4 would research it and get back to me.

5 THE COURT: I don't know that that's what I said,
6 but I haven't looked at the transcript recently. I don't
7 know what a CUSIP number is.

8 THE DEFENDANT: Okay.

9 Well, I also asked you, who holds the claim against
10 me? And for the record, by your own admission, you said
11 there was no claim against me.

12 THE COURT: I think what I said was there is no
13 civil claim against you. There are criminal charges.

14 THE DEFENDANT: I have a copy of the transcript
15 here.

16 THE COURT: All right.

17 THE DEFENDANT: It was stated to me that there was
18 no claim against me. You explained to me -- and I can read
19 it verbatim, if you would like.

20 THE COURT: I will take your word for it.

21 THE DEFENDANT: Basically, I was only asking about
22 the claim against me to find out who actually is alleging
23 what I did and where it's coming from.

24 And if there is no value to it, then how can we
25 possibly have a case? That's why I asked that information.

1 And the prosecution has a burden to basically state
2 the claim for which the relief can be granted.

3 And because they cannot and it has not been told to
4 me up to this point -- I have made several requests -- their
5 failure to state a claim is a reason why the case should be
6 dismissed.

7 THE COURT: The language you are using, "failure to
8 state a claim" for relief and for that reason the case should
9 be dismissed is all language that we think of in civil cases.

10 There is no claim against you in the sense that the
11 government is not asking, at this time, that you be found
12 liable for a civil claim.

13 They are -- they have charged you with crimes. And
14 it's their burden at trial to prove that you are guilty
15 beyond a reasonable doubt. That's the context that we are
16 in. It isn't a 12(b)(6) motion where they need to state a
17 claim for relief.

18 THE DEFENDANT: But in the beginning of the case,
19 you stated the charges against me and what the monetary value
20 were that was attached to those charges, along with the terms
21 of imprisonment. And there was a monetary value, and you
22 said that that was per count. That was the first day I came
23 to court.

24 THE COURT: I think I might -- perhaps I was
25 discussing a fine or potential financial penalties that you

1 would face.

2 THE DEFENDANT: Right. So that's -- when I asked,
3 who holds the claim against me? I was asking what the actual
4 charges were that were being held against me.

5 THE COURT: With respect to the charges, I can't
6 say anything beyond what shows up in the indictment. Those
7 are the charges.

8 THE DEFENDANT: Okay. And that's part of my issue
9 because if I am saying that no one is telling me that they
10 have an actual claim against me, I need to know who the
11 injured party is. There was no criminal intent. There is no
12 malice. So how are we still at a case? That's what my
13 question is.

14 And part of me discussing this, which I am really
15 directing to the prosecution and not you, is, I am putting
16 myself on the record because we got an extension in May from
17 you to come back here to do trial on August 17th. But since
18 then I have not -- nothing has been done on my case. So I
19 was forced to go out and look for information to defend
20 myself.

21 My attorney was busy with other cases that consumed
22 his time. So I am not saying it's no fault of his because
23 that's his caseload. But I still have a burden to get a fair
24 trial.

25 So my issue is -- now is that the information that

1 I have requested, put on record, I have also put a bill of
2 particulars -- I asked for a bill of particulars. I put that
3 on record. I also gave an affidavit where I am tendering
4 bond for payment if they are saying that I have a charge
5 against me. And no one has responded to anything.

6 And I can't talk directly to the prosecution, so
7 that's why I wait until I get to the court to deal with it
8 directly. That's why I asked my attorney to let me speak
9 first, because he chose not to be here on July 20th, and that
10 was his own choice.

11 THE COURT: I wasn't sure -- I think I commented on
12 this before. I wasn't sure he had notice of that.

13 THE DEFENDANT: He did.

14 MR. MURPHY: I had notice, Judge.

15 THE COURT: All right. Ms. Johnson, any response
16 from the government?

17 MS. JOHNSON: Your Honor, the government's response
18 is that this is a criminal case. There is no claim as would
19 be in a civil case.

20 The indictment states the charges that are against
21 the defendant. And it clearly states those charges.

22 I have no idea what a CUSIP number is.

23 The true bill is the indictment. It has been
24 provided to her.

25 And the only monetary information the Court advised

1 the defendant of was, at the time, she was advised of the
2 maximum penalties. The maximum penalty had a maximum of
3 \$250,000 or twice the gross loss or twice the gain or loss.

4 So those are the only monetary values that are
5 associated. But that is within the criminal context, not
6 within a claim context.

7 I have received certain documents from the
8 defendant directly, not through her attorney. And those
9 documents are unintelligible in that they speak of bonds,
10 which are irrelevant in a criminal case.

11 THE COURT: I think we should proceed with any
12 pretrial motions -- other pretrial motions that we have prior
13 to trial set to start on the 17th.

14 Mr. Murphy?

15 MR. MURPHY: Judge, if I may?

16 I care a great deal about my client. She is a
17 wonderful woman. But I chose not to come on that last court
18 date because I didn't want to file those documents.

19 And Ms. Bey *{sic}* and I are quite at odds over so
20 many things.

21 For example, the true bill, I don't think she is
22 referring to what we all know as the true bill, meaning the
23 indictment where the last page says "true bill."

24 And I have actually looked up a CUSIP number. I
25 kind of know it's some sort of number used at the Board of

1 Trade.

2 And the claim that she is talking about is based on
3 a bond that's taken out -- this is her beliefs -- that when
4 she was born, by the government, they take out a bond, and it
5 accumulates interest and everything like that so that the
6 government owes her a great deal of money that should take
7 the place of this indictment.

8 Don't look at me. I have actually researched this,
9 Judge.

10 THE COURT: It's a new one on me that the
11 government takes out a bond when you are born. I know they
12 didn't do that in my case.

13 MR. MURPHY: Again, I said my client and I have
14 come at loggerheads where we can't really communicate
15 anymore.

16 And don't take this wrong. I care a great deal
17 about her, but we are just not on the same wavelength. I
18 mean, I don't believe that this is a defense.

19 I mean, I was confused, but I actually have
20 researched this. And I was supposed to have meetings with
21 the gentleman who was head of the Moorish temple, and through
22 circumstances beyond his control, he never came to the
23 various meetings we set up so that I could educate myself.

24 But the civil lawyer who was handling the case with
25 me -- he was helping -- he is a tax lawyer; she does have a

1 civil case -- apparently is not going to pursue helping me
2 anymore. She goes to other lawyers.

3 Judge, I mean, I have never withdrawn from a case,
4 but I don't know how I can represent her. I just -- I am
5 lost.

6 THE DEFENDANT: Your Honor, may I speak?

7 THE COURT: Sure.

8 THE DEFENDANT: Mr. Murphy is a great lawyer. I do
9 believe when we came here in the very beginning of the case
10 last year that everybody had all intentions to make sure that
11 I was represented adequately by fair representation, which is
12 why I retained him, and also that I would get a fair trial.

13 We came here in May and we asked for an extension
14 due to lack of evidence being given to us by the prosecution.
15 None of that has ever been given over to Mr. Murphy or
16 requested. So when I met with him, I asked him, how are you
17 going to try a case on August 17th that we just met on a day
18 ago?

19 So I have a problem with the way everything has
20 been handled. And I understand he has scheduling issues and
21 conflicts, but my case is just as important as anybody else's
22 case. So that's why I took the time to research all the
23 information that I submitted, which, by the way, has nothing
24 to do with the defense that should have been prepared for me.
25 I reiterated that to Mr. Murphy several times.

1 The documents that I tendered to the Court were
2 government documents. So they are not -- they're
3 not whatever the prosecution called them to think that they
4 are not valid. But if everyone were to take time and
5 research those documents, they came from the government's Web
6 site. It was information that I researched to find out there
7 is a value to my case.

8 It doesn't matter whether it's civil or criminal.

9 And I told you I could explain what a CUSIP number
10 was to anybody that needed to know. And I could show how it
11 links to my case. It has nothing to do with the Board of
12 Trade.

13 THE COURT: Okay. Just a couple of things.

14 Mr. Murphy has not at any point told me that he has
15 scheduling issues or conflicts that prevent him from
16 representing you. He has never made that statement to me.
17 And he didn't make that statement just now.

18 With respect to information from the government, in
19 a criminal case you are entitled to certain information and
20 disclosures to be made by the government. I have no reason
21 to believe that those disclosures weren't made in this case.
22 Mr. Murphy hasn't told me that they weren't, and Ms. Johnson
23 has never asked for more time in that regard. I understood
24 she had made the disclosures required by a criminal
25 proceeding. And again, Mr. Murphy hasn't told me otherwise.

1 THE DEFENDANT: But there were things I requested
2 that Mr. Murphy never requested because he could never meet
3 with me.

4 I have only seen Mr. Murphy one time since we were
5 here in May. That does not constitute preparation for a
6 trial.

7 THE COURT: But if what you are looking for, for
8 example, is a CUSIP number and Mr. Murphy doesn't know what
9 that is or --

10 THE DEFENDANT: I am not even --

11 THE COURT: Could I finish?

12 THE DEFENDANT: Sure.

13 THE COURT: If what you are looking for is, for
14 example, a CUSIP number and Mr. Murphy either doesn't know
15 what it is or doesn't believe it's relevant to your case,
16 then he, as a responsible attorney, can't ask the government
17 for it, and he can't expect the government to produce it.

18 He has to focus on what he recognizes is germane to
19 a criminal case. That's his responsibility.

20 THE DEFENDANT: May I speak?

21 THE COURT: Sure.

22 THE DEFENDANT: The documents that I am requesting
23 are documents that were tampered with while they were in the
24 evidence -- in the custody of the prosecution. Dick Manning,
25 which is the other attorney, and I, we were allowed to go

1 into the room where all my files were kept. All the boxes
2 weren't there, and all the files were distorted.

3 I came back to Mr. Murphy, back in May, to inform
4 him that the documents that I needed to show proof or that
5 could help me in my case were not there.

6 Then he said he was going to make a request.

7 So it has nothing to do with the CUSIP number, any
8 of my sovereign documents or any of that. All of that stuff
9 was just submitted to the Court the end of June, early July.

10 I am speaking of what happened in the past year.

11 So there are a lot of things that I have problems
12 with requesting, but for some reason, Mr. Murphy had no time
13 to request them. They are documents that are pertaining
14 directly to the evidence that they said they have.

15 I was even given a subpoena. The subpoena is
16 dated -- says that I have to submit documents from 2003 to
17 2006. I can show the IRS inventory list that they gave me
18 when they came into the office. It shows all my bank
19 statements, corporate records, and everything are in those
20 boxes. And I saw them myself. And I was also with Richard
21 Manning when I was in the office.

22 So it's nothing I can provide if it's already in
23 their possession.

24 But I am also saying, the tampering of evidence is
25 my boxes that are in there. They have been in their office

1 since June of '05. So they have had an opportunity to take
2 whatever they wanted to out of those files.

3 I still have completed files that go after the year
4 '06 in my office where I can prove what documents were
5 maintained in the file. They are not there anymore.

6 THE COURT: If some documents are missing or have
7 been tampered with or destroyed, that's something that you
8 can present at trial, and the jury will be permitted to draw
9 an inference that anything that they destroyed or tampered
10 with would have been favorable to you.

11 THE DEFENDANT: Correct.

12 THE COURT: So I don't think that's an impediment
13 to our proceeding.

14 THE DEFENDANT: But there are other issues, I am
15 just saying, between a client and an attorney. I had issues
16 and things that could have been requested.

17 We have a private investigator that's part of the
18 case. All that information has to be thought out, set down,
19 and planned before we go to trial. We just saw the private
20 investigator this morning.

21 THE COURT: Are you asking that I appoint another
22 lawyer to represent you, or do you wish time to find another
23 lawyer to represent you?

24 Mr. Murphy has been your lawyer for months.

25 THE DEFENDANT: Exactly. He says he does not want

1 to represent me, and I don't think he has been representing
2 me the last couple of months anyway. So it's like I lost
3 time. We could have been going to trial now.

4 This is a huge burden on my family and my children.

5 THE COURT: I do want to go to trial now. I do
6 want to go to trial now.

7 THE DEFENDANT: I mean, if I thought he even put
8 forth a little effort for it, we could be going to trial.
9 But if I have only seen Mr. Murphy one time, I am just
10 saying, how could we possibly be prepared for trial?

11 I just met him yesterday. I saw him one time in
12 July, and that was at the discretion of Dick Manning, who
13 thought we were waiting too late to meet to put our
14 information together for trial. That's not how you prepare
15 for trial.

16 MR. MURPHY: There are things here that -- I don't
17 want to start getting into a "yes, that happened; no, it
18 didn't happen," a disagreement with Ms. Bey. But I have
19 talked to her so many times in the last few months that I
20 can't sleep at night.

21 I mean, again, we are disagreeing to things, but I
22 believe the government can corroborate that I have talked to
23 them and --

24 THE DEFENDANT: Maybe he was talking to them, but
25 he wasn't talking to me. That's my problem.

1 THE COURT: Ms. El Bey --

2 MR. MURPHY: Sometimes that's true because I am
3 listening, but she is not listening to me.

4 THE DEFENDANT: I have only spoken to you twice,
5 Bill.

6 THE COURT: Ms. El Bey, I am uncertain of what we
7 are doing here.

8 I had this case scheduled for a final pretrial
9 conference. I am expecting to pick a jury on the 17th of
10 August. I have questionnaires and a letter prepared. I am
11 prepared to go.

12 I know it's important to you that you get this
13 behind you. If you are going to be acquitted, all the sooner
14 that happens is better for you. I think it's important for
15 us to proceed.

16 What I am uncertain about now is whether you are
17 asking that Mr. Murphy be discharged from representing you;
18 and if so, what your proposal is with respect to your own
19 representation; and what your proposal is with respect to our
20 trial date, which has been set now for months, and which I
21 have carved out time for and I know the government attorneys
22 have as well. We are ready to proceed on the 17th.

23 THE DEFENDANT: With respect to everyone's
24 schedule, this is my life we are talking about. So the only
25 thing I am asking the Court to take into consideration is, I

1 deserve to have an adequate representation by an attorney
2 that's going to take the time to plan for trial. I don't
3 believe you plan for trial a week before trial.

4 And I am not an attorney, and I am not asking or
5 telling everybody that I am. But I am asking that I be given
6 fair opportunity to request the documents that Bill said he
7 was going to request that were never requested and the things
8 that didn't get communicated effectively between the two of
9 us.

10 THE COURT: You need to tell me what it is that you
11 need that you believe should be requested that hasn't been
12 requested. And let me tell you why I am saying that.

13 Mr. Murphy is an experienced criminal defense
14 attorney. This is not his first case. It's not his fifth
15 case. It's not his tenth case. He has been in the court
16 many, many times. I know he knows the rules.

17 I know that Mr. Milan and Ms. Johnson know the
18 rules.

19 I know that if they haven't complied with the
20 rules, either side, the other side will come tell me. I know
21 that's how it works. I have every reason to believe that
22 these lawyers know what they are doing. I have never seen
23 any indication on the part of any of these lawyers that they
24 don't.

25 So I haven't heard from Mr. Murphy in this case

1 that Ms. Johnson has withheld anything she is supposed to
2 produce or that Mr. Milan has withheld anything he is
3 supposed to produce.

4 You are telling me that there are materials you
5 need and things that you need to have. I need to know
6 specifically what they are.

7 I also need to know once again, are you asking that
8 I discharge Mr. Murphy? Are you asking for another lawyer?
9 And what is your proposal regarding our trial date?

10 THE DEFENDANT: I am asking that the trial date be
11 moved.

12 Mr. Murphy told me on yesterday that he did not
13 want to represent me in this case. So he was going to speak
14 on his own regarding that matter.

15 I am asking that I be entitled to adequate
16 representation and that the documents and the CDs, all the
17 tapes that I have asked for that he said he was going to
18 request, I am asking that they be given. I have a list of
19 things.

20 THE COURT: I would like to see the list.

21 THE DEFENDANT: Mr. Murphy wouldn't let me read the
22 list yesterday because he said he wanted to withdraw from the
23 case, so we got nowhere.

24 THE COURT: I have no reason to believe that you
25 are not getting adequate representation from the lawyer who

1 now represents you. I have no indication in this record that
2 Mr. Murphy is not providing an adequate representation.
3 None.

4 What I am hearing from you is that there were
5 certain documents you wanted him to request that he hasn't
6 requested. That's the only indication I am hearing that he
7 has not provided an adequate representation.

8 THE DEFENDANT: That's not the only thing I am
9 saying, your Honor.

10 THE COURT: Why don't we begin there.

11 What are the documents that you feel you are
12 entitled to that have not --

13 THE DEFENDANT: I have --

14 THE COURT: Could I finish?

15 THE DEFENDANT: Sure.

16 THE COURT: -- that have not been requested or
17 produced?

18 THE DEFENDANT: There are documents pertaining to
19 each witness that should have been in the files that they
20 said they made available to us.

21 THE COURT: Can you tell me what those documents
22 are?

23 THE DEFENDANT: Disclaimer forms, 8453s, signature
24 documents.

25 THE COURT: Tell me what you mean by a signature

1 document.

2 THE DEFENDANT: Signature documents, where clients,
3 before they allow us to transmit their file, give us
4 permission to electronically file it by signing under
5 penalties of perjury.

6 THE COURT: Would these be materials that you would
7 have in your files?

8 THE DEFENDANT: Yes.

9 THE COURT: But you no longer have them in your
10 files.

11 THE DEFENDANT: Well, the files are with the IRS.

12 THE COURT: And you don't have any copies of your
13 own; is that right?

14 THE DEFENDANT: They took everything.

15 THE COURT: So you need signature documents.
16 That's one thing.

17 8453s. Let's talk about that.

18 Tell me what an 8453 is.

19 THE DEFENDANT: That's an Internal Revenue Service
20 document that allows the taxpayer to authorize the electronic
21 file provider to submit documents in. That was another
22 document.

23 The first document is called a disclaimer. That's
24 made by my office, Diamond Accounting.

25 THE COURT: Okay. And these would all be items

1 that would be in the files that you prepared for your
2 clients.

3 THE DEFENDANT: Yes.

4 THE COURT: Is that right?

5 THE DEFENDANT: Yes.

6 THE COURT: Okay. And those were documents that
7 were seized when your files were seized by the government?

8 THE DEFENDANT: Yes.

9 THE COURT: And you need copies of them in order to
10 prepare for your defense?

11 THE DEFENDANT: Yes.

12 THE COURT: Okay. That's a fair request.

13 Are there other documents that you need?

14 THE DEFENDANT: I asked for a clean copy of the
15 undercover versions disk.

16 We were given an undercover -- a CD, but it was
17 inaudible. So the IRS had a clean copy, and a clean copy was
18 never provided to us.

19 THE COURT: So you need an audible copy of the
20 surveillance tapes; is that right?

21 THE DEFENDANT: No, no. It wasn't surveillance.
22 It was audio. It was an undercover agent that was wired.

23 THE COURT: An audiotape can be a surveillance
24 tape. Are you talking about a tape made between an agent and
25 you?

1 THE DEFENDANT: Yes.

2 THE COURT: All right. So you want an audible copy
3 of the recording; is that right?

4 THE DEFENDANT: Yes.

5 THE COURT: All right. What else do you need?

6 THE DEFENDANT: I would like for -- this is not
7 from the prosecution, but I would like for the private
8 investigator's observations to be given to the attorney as
9 well.

10 THE COURT: Which private investigator are we
11 talking about?

12 THE DEFENDANT: His name is Mr. Hodges. He is here
13 today.

14 THE COURT: Is he a government agent?

15 THE DEFENDANT: No.

16 MR. MURPHY: He is not.

17 THE DEFENDANT: No. He worked for us.

18 THE COURT: And what is it that you believe he has
19 that you would like?

20 THE DEFENDANT: Interviews.

21 THE COURT: By that you mean notes of interviews,
22 transcripts of interviews?

23 THE DEFENDANT: Interviews of some of the witnesses
24 and people who could attest to the issues that are being
25 alleged.

1 THE COURT: I am not trying to be difficult. When
2 you say that you need interviews, an interview is, in my
3 mind, an oral conversation between people.

4 So are you talking about something in writing now?
5 And tell me, if so, what is that?

6 THE DEFENDANT: Yes. He has made notes. He went
7 out to interview witnesses. He has made notes, but we have
8 not all come together.

9 THE COURT: Okay. So notes from the investigator's
10 interviews.

11 THE DEFENDANT: Yes.

12 THE COURT: Anything else?

13 THE DEFENDANT: There was, I believe, an expert
14 testimony, or so-called expert testimony. I would need the
15 information that the expert witness gave in order to derive
16 to the figure, which was supposed to be 12 million. Now it's
17 \$140,000.

18 THE COURT: All right. And which expert are we
19 talking about here?

20 THE DEFENDANT: I am not sure who he is, but it was
21 given to Bill on the last court date.

22 THE COURT: When you say, "it was given," that's a
23 passive construction, and I don't know who it was that gave
24 it to him.

25 THE DEFENDANT: The prosecution gave Bill a copy of

1 the expert testimony.

2 THE COURT: All right. An expert report.

3 THE DEFENDANT: Yes.

4 THE COURT: Anything else?

5 THE DEFENDANT: Yes. Access to the files that were
6 taken from the office so that we can inventory the boxes
7 ourselves versus the list that was created by Ms. Acevedo.

8 Your Honor, I also have a document that I submitted
9 to the Court on the record. It is a demand for a bill of
10 particulars. And if I can give it to my attorney, he can
11 give it to the prosecution, but it was already recorded on my
12 case.

13 THE COURT: Requests for bills of particulars are
14 rarely granted because the detail in the indictment should be
15 sufficient. And in this case, where the details in the bill
16 of indictment are amplified by discovery responses,
17 ordinarily that's all that's necessary.

18 But I think we should talk about these three
19 categories -- or several categories of documents that you
20 have identified.

21 Let me ask whether the government can provide us
22 with these disclaimer documents, 8453 IRS forms, and the
23 signature documents that would be maintained in -- as I
24 understand it, in Ms. Littrice's client files?

25 MS. JOHNSON: Your Honor, with regard to the

1 8453 documents, they have been -- to the degree that we have
2 them, they have been provided and disclosed.

3 As for signature documents, it's been explained to
4 me that prior to the 8453, there was something called -- or
5 something she may be referring to as a signature document,
6 which is similar to an 8453, which a client signs authorizing
7 the electronic filing of their document.

8 There is also an 88-something-or-other that's a
9 similar type of document.

10 All the documents that we have with regard to the
11 witnesses and the possible witnesses and even people who we
12 have not chosen to use as witnesses have been disclosed. We
13 have made copies of them. Based on the defendant's request,
14 we went back to make sure we had gotten all of them. We
15 determined that we had not. And then we pulled the
16 additional ones, made copies, and provided those to
17 Mr. Murphy.

18 I will stop there for your next question.

19 THE COURT: Okay. That accounts for disclaimer,
20 8453, and signature documents.

21 MS. JOHNSON: I am sorry. As for disclaimer, your
22 Honor.

23 THE COURT: Yes.

24 MS. JOHNSON: There were no disclaimer documents
25 found in any of the records that we have copies of.

1 And also to clarify, as the defendant has stated,
2 the search was done in 2005. There are documents that could
3 exist between 2005 and 2006 which the IRS does not have
4 because they did not go back and seize any additional
5 documents. So if such documents exist for the year -- that
6 were prepared between 2005 and 2006, the defendant would have
7 them. We would not.

8 THE COURT: Okay. And you don't have any from
9 prior to '06?

10 MS. JOHNSON: No, your Honor, we do not. We have
11 looked for such documents. We have not identified such
12 documents. We have spoken to certain witnesses -- not all
13 the witnesses -- about them. And they do not recall ever
14 signing any such documents.

15 THE DEFENDANT: Your Honor, Mr. Murphy has some
16 files in possession that was given to him by the prosecution,
17 and they have these disclaimers in some of them. So the
18 documents actually exist.

19 And they were given to him by you-all.

20 This is what the document looks like, if she would
21 like to take a look at it (indicating). Bill has those
22 copies in his files. They were provided by the prosecution.

23 But they are in there, and they are signed. They
24 are just not there for every one. They are only every other
25 file.

1 THE COURT: I think what Ms. Johnson is saying is
2 that she has produced every one they have.

3 THE DEFENDANT: She said that she's never heard of
4 a disclaimer and she has asked people.

5 And I am just saying that -- I am making my comment
6 to say that these files have been given to Bill, and there
7 are signed copies in some of the witnesses' files.

8 THE COURT: Let's talk about the expert report.
9 Has a copy of the expert report been prepared?

10 MS. JOHNSON: Your Honor, if you will recall, at
11 our last pretrial conference, the government did an expert
12 disclosure statement as a precautionary measure. The
13 individual who will be testifying is basically a summary
14 witness who will be testifying as to the effect of the
15 alleged missing information or misinformation that's on the
16 tax returns and how that would change the tax liability of
17 the particular taxpayer.

18 The Court -- we discussed this in court, and it was
19 determined that it's not actually an expert. But we have
20 provided, I believe, draft copies of the calculations. If we
21 have not, we can provide those draft copies today.

22 THE COURT: All right. So that's regarding the
23 testimony that will be given by your summary witness.

24 MS. JOHNSON: Yes. It's more of a summary witness,
25 but we did a disclosure in an abundance of caution, just in

1 case the Court would see them as something other than a
2 summary witness. And I don't believe there was any objection
3 to him being a summary witness.

4 THE COURT: All right. I think the last item on my
5 list here is, you know, the inaudible version of the
6 recording.

7 I wonder if we could ask for another copy of the
8 recording to be produced to Ms. Littrice?

9 MS. JOHNSON: I will certainly provide another copy
10 of the recording. We have also provided a draft transcripts
11 of the recordings.

12 THE COURT: All right.

13 THE DEFENDANT: Your Honor, may I speak?

14 THE COURT: Sure.

15 THE DEFENDANT: The other items that I was
16 requesting -- I had to find my list.

17 There is an initial verified complaint that was
18 done to initiate the case.

19 THE COURT: Okay.

20 THE DEFENDANT: I have never been provided with a
21 copy of that, and I would like a copy for the record.

22 THE COURT: You are entitled to that.

23 THE DEFENDANT: And I also am requesting, for the
24 record, a copy of the original signed search warrant.

25 And I am also requesting a copy of the full

1 disclosure and the nature of the case for the proceedings.

2 These items I have never received.

3 MS. JOHNSON: May I start -- I can start with what
4 she asked for.

5 THE COURT: Sure.

6 MS. JOHNSON: The initial verified complaint.

7 Number one, a verified complaint is a civil document. There
8 is no initial verified complaint in this cases. This case
9 was brought by indictment. There was no complaint.

10 THE COURT: There was no preceding criminal
11 complaint?

12 MS. JOHNSON: No, your Honor.

13 THE COURT: It doesn't always happen. Some cases
14 are initiated by way of an indictment. And Ms. Johnson is
15 telling me that's what happened in this case. There wasn't a
16 complaint.

17 MS. JOHNSON: Your Honor, there may be some
18 confusion because there is another case pending against the
19 defendant, which is a civil case, which is not what's before
20 this Court.

21 THE COURT: What about -- the other item that
22 Ms. Littrice mentioned is a signed copy of the search
23 warrant.

24 MS. JOHNSON: She has a copy of the search warrant.
25 There was one given to her at the time of the search. We

1 produced a copy of the search warrant as part of our
2 disclosure. And if she needs another copy, we can provide
3 her with another copy.

4 THE COURT: Okay.

5 THE DEFENDANT: I was asking for the original
6 signed search warrant. I do have a copy of the search
7 warrant, but the date of execution is blank.

8 THE COURT: All right.

9 I will direct that the government provide you with
10 a copy of a dated and signed warrant.

11 THE DEFENDANT: Your Honor, back to the verified
12 complaint that doesn't exist, when the case was brought for
13 indictment, if it doesn't have a verified complaint
14 initially, what actually constitutes the indictment to go
15 forth?

16 THE COURT: I don't understand the question.

17 THE DEFENDANT: When I was asking for the initial
18 verified complaint, she said an indictment was done and
19 that's where the charge actually came from.

20 I just want to know what -- something had to
21 initiate the case. What --

22 THE COURT: I understand the question.

23 In a criminal case, it can be initiated one of two
24 ways. There can be a criminal complaint. And if that
25 happens, the government is required to follow up with an

1 indictment, ordinarily within 30 days. Sometimes they get
2 extensions of time, but that's pretty standard.

3 But there are other cases, a number of other cases,
4 many I have had, where no criminal complaint is ever
5 initiated because the case begins with an indictment.

6 So what Ms. Johnson is telling me is, this is one
7 of those cases. They never issued a sworn criminal
8 complaint. They started in this case, the prosecution, by
9 going to the grand jury and getting an indictment.

10 So the indictment -- which we, by the way,
11 sometimes call a true bill. We don't make -- at least I
12 don't make a distinction between those two documents. I
13 don't know if there is one.

14 My understanding is that the indictment is the
15 instrument that initiates a criminal proceeding. In fact, in
16 a felony case, an indictment is required. If you don't get
17 an indictment in a felony case --

18 THE DEFENDANT: So what initiates the indictment?

19 We were served with papers for the search warrant
20 in June of 2005, and the indictment was in July of '08. So I
21 am really trying to get to the root of who actually filed the
22 initial complaint.

23 THE COURT: You can issue a search warrant without
24 a complaint. Maybe that's what happened in this case. I
25 don't know.

1 THE DEFENDANT: But wouldn't there have to be a
2 reason, probable cause, to have a search warrant?

3 THE COURT: Sure.

4 THE DEFENDANT: So what document would be done --
5 or what would be done to justify that search warrant?

6 THE COURT: That could be an affidavit.

7 THE DEFENDANT: By whom? One of my clients?

8 THE COURT: I don't know.

9 THE DEFENDANT: That's my question I'm asking.

10 THE COURT: So you would like the affidavit given
11 in support of the search warrant?

12 THE DEFENDANT: Yes, to start the case initially.

13 THE COURT: All right.

14 Mr. Murphy?

15 MR. MURPHY: I think what -- we are taking a guess
16 that it started during somebody's audit, and they said
17 something that eventually led to the IRS obtaining a search
18 warrant. I think that's what Ms. Bey means.

19 Right?

20 THE DEFENDANT: Yes.

21 MR. MURPHY: Or we don't know that there was an
22 audit.

23 THE DEFENDANT: Right. We don't know.

24 MR. MURPHY: But whatever -- whether it was an
25 anonymous tip or a complaint against someone else --

1 THE DEFENDANT: That's what I am asking. That's
2 actually what I am asking.

3 And also my other question, which could piggyback
4 on that question, is, regarding the grand jury that brought
5 forth the indictment, there were documents that were
6 requested: my bank statements, my mortgage documents, and
7 from the Household Bank provider of our e-filing services.

8 All those documents were requested for the special
9 grand jury back in May. And we were told they were going to
10 be made available, and that's how the indictment was brought
11 forth.

12 I have never seen any of them. The only thing I
13 received are letters from those particular entities stating
14 that they would be attending a special grand jury and they
15 had to tender over my documents: bank statements; mortgage
16 documents; and the information from the service provider,
17 Household Bank.

18 So I got letters from all banks that I deal with.
19 And I also got letters from my mortgage company. At that
20 time, I had just closed. So those documents were supposed to
21 be given to me as to how the case came about after the
22 special grand jury. I never received any of that. That was
23 one of the documents I was requesting a while ago.

24 THE COURT: Okay. I am still not quite sure I
25 understand this.

1 Documents that were issued or generated by the
2 grand jury or presented to the grand jury?

3 THE DEFENDANT: It was presented to the grand jury.
4 I received letters from LaSalle Bank, Chase Bank, anybody
5 that I have dealt with. And I called those people, because
6 they were saying they had to give my bank statements over to
7 these entities.

8 This is before I knew that the case actually
9 existed.

10 So I called the legal department at the bank, and
11 they said by law they had to notify me that they would be
12 attending a special grand jury hearing. And then that's when
13 I then talked to my attorney and he took it from there.

14 But we have never been given any documents that
15 were tendered at that special grand jury to start the
16 indictment.

17 THE COURT: Response?

18 MS. JOHNSON: Your Honor, a copy of the HSBC
19 documents, I believe, were provided specifically to the
20 defendant. And the remainder of those documents have been
21 available for review, pursuant to the government's disclosure
22 letter, at any point in time that the defendant wanted to
23 review them, as we have made other documents per her request
24 available to her for review, including all the search
25 documents on two separate -- on one occasion officer's

1 documents and on a separate occasion documents relating
2 particularly to certain witnesses.

3 We also will happily make the other documents
4 available to her.

5 But the HSBC records were definitely produced to
6 her.

7 And I am trying to determine whether or not the
8 other documents she is referring to are available to her.
9 But if they are not, we can make them available. They have
10 always been available for her review.

11 As the Court would understand, the number of
12 documents that have been requested and maintained in this
13 particular case are voluminous, so we have not copied each
14 and every single document.

15 THE COURT: In any case, it sounds as though the
16 government doesn't have any objection to producing, again for
17 the review, HSBC records, the documents that relate to the
18 search, and the documents seized from Ms. Littrice's office.

19 MS. JOHNSON: Your Honor, actually, Fremont
20 Investment records were made available -- were produced to
21 the defendant, LaSalle Bank records, Pullman Bank records.
22 All three of those types of records were actually produced.

23 THE DEFENDANT: We never saw them.

24 THE COURT: Who's "we"?

25 THE DEFENDANT: Myself and Mr. Murphy.

1 We have never seen any of the mortgage documents,
2 the bank documents. The only thing that was in the file was
3 the HSBC documents. That was in the file.

4 THE COURT: Okay. It sounds like they are
5 available for your review right now.

6 MS. JOHNSON: Your Honor, we even have a list of
7 the documents that we have copied and produced, but we can
8 reproduce them.

9 THE COURT: Does the list that you are looking at
10 right now include a reference to these bank documents?

11 MS. JOHNSON: That is our internal list. Yes, your
12 Honor. Each time we did a disclosure, we gave a list of what
13 was being disclosed. So I can check my disclosure as well.

14 In either case, we can make sure they are
15 available, but I can confirm that they were disclosed
16 previously.

17 THE COURT: Mr. Murphy, is it your position that
18 the government has withheld any relevant bank records?

19 MR. MURPHY: Judge, I can say without any doubt
20 that Ms. Johnson has been responsive to all my requests. I
21 have got organized files.

22 I know that the files in the IRS were kept in a
23 disarray in 41 different boxes that Dick Manning and LaShawn
24 went over. There were things that were there.

25 And we did receive a subpoena not too long ago for

1 records that my client now has indicated that were in the
2 boxes. And I let Ms. Johnson know that.

3 And we also let her know, as far as the subpoena
4 relating to business records from '06, that we weren't going
5 to produce it without a court order.

6 I also have in my possession a bill of particular.
7 It's got my name on it as the attorney. And this is one of
8 the problems I have had with Ms. Littrice -- or Ms. Bey. I
9 am sorry.

10 THE COURT: Ms. El Bey.

11 MR. MURPHY: El Bey.

12 Again, I said I would research this. And I was on
13 an executive committee meeting on this at a prior time. And
14 based on that executive committee meeting, I can't put my
15 name on a document like this. I would only do so if I was
16 ordered, but I don't think your Honor will order me.

17 THE DEFENDANT: I didn't submit that document as if
18 he did. That's why my name is on the top.

19 But you are my attorney, though, so I don't have it
20 like you submitted it.

21 As a matter of fact, when I entered into it, I told
22 him that I was entering it on my own, so that's how it's
23 recorded. So it's not misrepresenting Mr. Murphy at all. He
24 is still my attorney on record as of now.

25 THE COURT: Yes, he is your attorney of record.

1 When an individual in a criminal case is
2 represented by counsel, ordinarily they are not permitted to
3 file *pro se* pleadings.

4 If an individual who's represented by counsel does
5 submit a *pro se* pleading, I think it's important to leave the
6 lawyer's name out of it because the lawyer can only sign or
7 submit a document if he or she is prepared to stand by that
8 document.

9 Mr. Murphy is indicating that he is not endorsing
10 or signing off on this document. He is not submitting it to
11 the Court, so his name shouldn't be on it.

12 THE DEFENDANT: I signed it. I was just showing
13 him that I never misrepresented his signature.

14 The line just said "Enter attorney's name." He was
15 my attorney. So I wasn't trying to misrepresent the
16 document.

17 And it was a document that he would not have
18 submitted on my behalf. So I submitted it myself.

19 MS. JOHNSON: Your Honor, I am sorry. I do have
20 the answer.

21 I believe on July 10th a discovery disk was sent
22 that contained the Fremont Investment records, LaSalle Bank
23 records, Pullman Bank, and certain audit files and additional
24 memorandums of interview.

25 THE DEFENDANT: Did you get that? I never heard of

1 it.

2 MR. MURPHY: I did receive a disk. I made copies
3 of all disks that I have given to Ms. El Bey, but I believe
4 it totaled like six or seven.

5 THE DEFENDANT: Right. But not that disk. You
6 just got that in July. We just met in mid-July, so I didn't
7 get another disk from you.

8 THE COURT: I still need to know exactly what
9 request is being made.

10 Are you requesting -- I am asking now again. Are
11 you asking that Mr. Murphy be excused from representing you?

12 And if so, will you be finding substitute counsel
13 to represent you?

14 THE DEFENDANT: I am requesting that if Mr. Murphy
15 does not want to represent me, that he say so. I am not
16 asking him not to be a part of the case. But if that is his
17 wish, he needs to let the Court know.

18 And I am also asking that the trial date be moved
19 because, even if Mr. Murphy were to represent me, he is not
20 prepared.

21 THE COURT: I have never heard from Mr. Murphy that
22 he is not prepared.

23 THE DEFENDANT: Exactly. And that's what I am
24 saying. At some point attorneys have to be accountable for
25 their time and their caseload as well.

1 THE COURT: What I am saying is, he hasn't told me
2 that he is not prepared to proceed.

3 THE DEFENDANT: Right. And this is the first time
4 you have seen him since we came in May.

5 THE COURT: I don't --

6 THE DEFENDANT: So he's got to speak. He's got to
7 speak. I'm just saying I can't talk for him.

8 The only thing I am doing is basically saying what
9 I know. I am the actual client in the case. I have not
10 gotten a chance to confer with my attorney but once. And we
11 were not preparing for trial.

12 THE COURT: Okay. Is the problem that you really
13 have not had enough time to meet with Mr. Murphy? Is that
14 the problem?

15 THE DEFENDANT: I guess it's according to his
16 schedule. But he said yesterday he didn't want to represent
17 me anymore.

18 THE COURT: From your perspective -- I am going to
19 put him out of it for a moment.

20 From your perspective, the problem is that you
21 haven't had a chance -- a sufficient chance to consult with
22 him about your defense in this case?

23 THE DEFENDANT: Correct.

24 THE COURT: All right.

25 Well, we still have a week and a half between now

1 and when the trial is set to begin. It seems to me -- and I
2 am hearing from Ms. Johnson that she is prepared, and has
3 already done so, to provide all the documents that you are
4 looking for, to the extent they are in the government's
5 hands.

6 Perhaps it would make sense for us to recess, give
7 you a chance to meet with Mr. Murphy, and see whether you can
8 develop a plan for a defense in this case.

9 It might be Mr. Murphy's ideas about the defense
10 and yours are somewhat different.

11 But to the extent that you are looking for
12 documents and the like, you are entitled to those documents.
13 I want to make sure that you get them. I can't make the
14 government produce documents that don't exist, obviously.
15 But certainly if there are documents that are in their
16 possession that you haven't, for whatever reason, gotten a
17 chance to see, you are entitled to that.

18 So if your concern is that you feel Mr. Murphy
19 hasn't had time and you want a chance to make sure that he
20 has had that time, that he has got the documents he needs,
21 why don't we take some time right now and make sure that that
22 happens.

23 THE DEFENDANT: But also no one ever responded to
24 the request for the full disclosure of the case.

25 THE COURT: Which full disclosure?

1 THE DEFENDANT: When you were asking me the items,
2 I said I need full disclosure of the nature of the case for
3 the proceedings. It's information that I would like to
4 review.

5 If things were made available to my attorney, then
6 I should be able to review those documents as well.

7 Then, in response to the date, August 17th is two
8 weeks away. I have a family vacation planned for Saturday,
9 August 8th, in which Mr. Murphy was well aware of, and he
10 says that he forgot. August 8th to August 15th. I planned
11 this months ago. We had a trial date of May 26th.

12 So it was a trip that was basically paid for by my
13 family back in February or March, when we thought we were
14 going to a May trial. So I couldn't undo anything. So now
15 that's an issue for the time.

16 This just happened to fall on the August 5th date
17 when you-all rescheduled it back in May.

18 MS. JOHNSON: Your Honor, with regard to the trial
19 date, at the time the trial was rescheduled, the defendant
20 was present. So she has always been aware of the August 17th
21 trial date.

22 THE DEFENDANT: But the date was already set for
23 the trip, and I have documents to prove that. It was done in
24 March.

25 THE COURT: But you didn't mention that to me. And

1 I believe --

2 THE DEFENDANT: Well, I mentioned it to Mr. Murphy.

3 THE COURT: Could I finish?

4 THE DEFENDANT: Sure.

5 THE COURT: I believe that, because you are on
6 pretrial release, you need authorization from the Court to
7 leave the city anyway. And if that's a reason that you are
8 not going to be prepared to go to trial, I will be denying
9 leave for you to leave the jurisdiction.

10 Let me just make a few more points.

11 With respect to the request for a full disclosure
12 of some kind, that request, the fact that you need some full
13 disclosure, would not be a basis upon which I can move the
14 trial date because I have yet to hear that any full
15 disclosure hasn't been made.

16 The document that initiates this case was the
17 indictment. That's been available to you all along. There
18 is no criminal complaint. We have heard that. I don't
19 understand that anything has been withheld.

20 If there is some full disclosure that you think
21 isn't there, it's simply not there. What that means is that
22 you will be able to argue to the jury that they haven't made
23 full disclosure, material hasn't been produced, that they
24 have withheld materials. And to the extent they have been
25 withheld, that the jury should draw a conclusion those

1 documents would be favorable to you. You are in a position
2 to make all those arguments.

3 But I can't require them to produce documents that
4 don't exist.

5 And the fact that they haven't produced such
6 documents is not a reason for me to move the trial date.

7 Your personal vacation, respectfully, is not a
8 reason for me to move this trial date, which was set months
9 ago while you were here; and as to which, I would have to
10 give you leave to leave the jurisdiction anyway.

11 The government has been prepared for months for
12 this. I have been prepared for months. We have set aside
13 time. Other people who would like to have tried their cases
14 next week were told no -- not next week, but a week and a
15 half from now were told no by me because of your trial. And
16 I think it's appropriate for us to proceed.

17 Now, my question again is whether you are asking
18 that I appoint another lawyer. And your answer to that has
19 been that you think Mr. Murphy should speak to that.

20 To the extent that you believe he is not prepared
21 or needs more time, why don't we find out whether he could
22 take the time right now to meet with you and make sure that
23 he is prepared to proceed to trial in a week and a half?

24 THE DEFENDANT: But, your Honor, with respect, I
25 was never introducing my vacation to say that that was a

1 reason for more time. The vacation was planned months ago,
2 before we had an extension trial. And the person that booked
3 the trip did not know anything about the trial date changing.
4 So that was not done intentionally. This is something that
5 we do every year with our children. So it has nothing to do
6 with the case. I had them push the date back because we had
7 a May 26th trial date.

8 So if you review the documents -- Mr. Murphy does
9 have a copy of them. And he was aware the last time we was
10 here because I had them then. He just said it was not a good
11 time to bring it up.

12 THE COURT: Ms. Littrice, I am not moving the trial
13 date for your vacation.

14 THE DEFENDANT: No, no. I don't want it moved
15 because of the vacation. I want it moved because my attorney
16 has not conferred with me, and he is not prepared.

17 THE COURT: Why don't we give him a chance to
18 confer with you now?

19 THE DEFENDANT: Sure.

20 THE COURT: Why don't we recess until 4 o'clock. I
21 will see you then.

22 MR. MURPHY: Judge, I am prepared to address it
23 right now.

24 THE COURT: Excuse me?

25 MR. MURPHY: I am prepared to address it right now.

1 THE COURT: Well, I think you should meet with your
2 client.

3 MR. MURPHY: I met with her last night, Judge. I
4 would have met with her a few minutes this morning, but she
5 brought the kids down.

6 THE COURT: She is telling me that you haven't had
7 time to prepare.

8 MR. MURPHY: Basically, I have never asked to
9 withdraw from a case in federal court. I can recall offhand
10 once in state court. And that's over 41 years.

11 Ms. Littrice -- Ms. El Bey and I are not
12 communicating at all.

13 I don't know how many times I have seen her since
14 the last court date, but I know I have talked to her
15 continually. But admittedly, things have gone askew because
16 of things that I don't feel are appropriate for a defense,
17 especially by an attorney. And I have actually taken time
18 and looked at them.

19 I mean, I can't be ready if I can't communicate or
20 get the cooperation with my client.

21 Admittedly, I got a little upset. And I never get
22 upset with clients, but I have been very upset to the point
23 where I don't know how I can represent her when I don't know
24 what's going on.

25 She talked about the vacation schedule. She may or

1 may not have told me. I really don't know.

2 I have been on trial, but I am here. I am
3 available. The investigator has been out there six -- I
4 believe he told me six times. But I just -- I am not having
5 communications.

6 I am not able to communicate with her -- for
7 example, this bill of particulars that I don't want my name
8 on is -- I don't know if anybody wants to see it, but I don't
9 believe it's appropriate.

10 I mean, she and I have deep-seated problems right
11 now, especially when it comes to some of the other attorneys
12 that were with me, some things that have been said, some
13 things I would certainly disagree with.

14 I have got a file. It's fairly orderly. The
15 government does have, I think, 41 boxes over at the IRS that
16 are in disarray. Things may have been missed. I certainly
17 would never believe for one second that Lela Johnson would
18 withhold anything I asked for. Never for a second would I
19 think that.

20 That doesn't make me a coconspirator with the
21 government. It's just that that's how I feel.

22 But I don't know if I can represent her. I can't
23 sleep at night. I couldn't sleep last night. I mean,
24 there's things that have been said that aren't correct.

25 So my position is -- and I told her last night --

1 at this late juncture, that I was going to ask to withdraw.

2 She came about 5:30 or so last night, and we were
3 supposed to meet this morning, but she got -- she was
4 delayed.

5 One of the problems, too, is Mr. Manning, who was
6 the -- he is the tax attorney who went with her to go through
7 the boxes, I don't believe is any longer on the case. So I
8 can't say what's in those boxes or not.

9 THE COURT: My concern, Mr. Murphy, is, I don't
10 have any reason to believe some other lawyer will be better
11 equipped to handle this case or will be willing to adopt
12 positions that you have been unwilling to adopt.

13 I also think there is real unfairness to the
14 government in not proceeding on a trial date they have
15 prepared now for months for. And in fact, they were ready
16 back months ago to try the case. If we continue it, I don't
17 know to what end that is.

18 It doesn't sound as though Ms. Littrice expects to
19 work with another lawyer. If she expects to represent
20 herself, I haven't heard that either.

21 MR. MURPHY: She told me last night that she was
22 consulting with another lawyer.

23 THE COURT: Is that lawyer available?

24 I can't reset the trial unless some lawyer is
25 telling me when it is he or she is going to be prepared to

1 proceed.

2 MR. MURPHY: The lawyer was telling her what I am
3 doing wrong apparently.

4 THE DEFENDANT: May I speak?

5 THE COURT: Sure.

6 THE DEFENDANT: I haven't been consulting another
7 attorney for my case. I have been researching on my own. So
8 any information I have given to Mr. Murphy has been
9 information that I researched on my own. I haven't had
10 another lawyer.

11 I did introduce Mr. Murphy to someone who I thought
12 could be a good special witness or an expert witness on our
13 behalf, but I have not consulted with him after he met with
14 Mr. Murphy. That was back before we came here in May.

15 And with respect to the private investigator, we
16 haven't seen him since before May as well.

17 THE COURT: Do you have another lawyer who's going
18 to be representing you?

19 THE DEFENDANT: No.

20 THE COURT: In that case, I think that you should
21 be prepared to proceed *pro se* on the 17th of August.

22 THE DEFENDANT: I was going to find another lawyer
23 that I could use, but the information that Mr. Manning has,
24 who he is referring to, Mr. Manning needs to be paid a
25 certain amount of money, and that's why he is not assisting.

1 But he also has a lot of the pertinent information that the
2 three of us have come up with putting the case together, up
3 until May.

4 THE COURT: I am not sure I understand how that
5 responds to my direction.

6 THE DEFENDANT: Mr. Manning only withdrew because
7 he needed to be paid money. And I have already exhausted
8 thousands of thousands of dollars that we don't have anymore.

9 THE COURT: Fair enough.

10 THE DEFENDANT: So my position is, I would not want
11 to represent myself *pro se*. I never said that, and I never
12 told Mr. Murphy that either. But the trial date is -- and he
13 is not being accountable as an attorney and as an officer of
14 the court.

15 I hear what he is saying about Ms. Johnson. I
16 don't know what his conversations were with Ms. Johnson. I
17 don't know how many times she has talked to him. But as a
18 client, I would never get before the Court and lie and say
19 that I have talked to Mr. Murphy and prepared for trial.

20 Mr. Murphy has had murder cases back to back to
21 back. So from the date you extended the case, we never heard
22 from him.

23 THE COURT: Mr. Murphy --

24 THE DEFENDANT: That's a problem for me because
25 Mr. Murphy should be stepping up and being honest with the

1 Court.

2 THE COURT: Mr. Murphy has never, in my experience,
3 been a person of anything other than complete honesty. And I
4 have never seen -- I have never had a basis -- in years on
5 this bench, seeing this gentleman and many other lawyers, I
6 have never had a basis to question his integrity. None. I
7 have never had the slightest suspicion about that.

8 I just want to make that comment for the record.

9 Now, I still didn't understand the request.

10 We have a trial date set for the 17th. If
11 Mr. Murphy will not be representing you, then we need another
12 lawyer to represent you or you will proceed on your own.

13 I have not --

14 THE DEFENDANT: I am not prepared --

15 THE COURT: Could I finish?

16 THE DEFENDANT: Sure.

17 THE COURT: I have not heard from you which of
18 those options you are asking for.

19 When you have mentioned a continuance, you haven't
20 even told me how much time you need.

21 THE DEFENDANT: If I need to retain another lawyer,
22 an adequate two weeks should be sufficient. I am not asking
23 for an extension beyond recognition.

24 If Mr. Murphy doesn't want to represent me, I am
25 not asking him not to. He is electing to do that. So I am

1 not trying to buy more time on that.

2 But also with respect to your experience with him,
3 I also have an experience with him that dates back to June of
4 2005. And we had no reason to be very attentive because no
5 information was being provided for three years. And then,
6 out of the blue, information came from everywhere. And then
7 I needed to be in his face on a regular basis.

8 And to me, this is an important matter that I could
9 not let go for months without speaking to my attorney.

10 If you ask Mr. Murphy of his schedule and how many
11 times he has met -- the Court has not asked Mr. Murphy how
12 many times he has met with me since you extended the case on
13 May 10th. We have only met one time. That's not sufficient
14 for an adequate defense.

15 And as an officer of the court, he has a duty to
16 defend me. And I could very well say, I don't want to get
17 another lawyer. I don't even have any money to pay another
18 lawyer.

19 THE COURT: I am going to grant Mr. Murphy's oral
20 motion for leave to withdraw.

21 I am going to set this case for a status on Monday
22 morning. At that time, Ms. Littrice, I expect that you will
23 appear here and explain to me that -- identify to me a lawyer
24 who will be representing you in this case or, alternatively,
25 letting me know that you will be proceeding *pro se* or whether

1 you are asking that the Court appoint counsel.

2 I will see you on Monday.

3 THE DEFENDANT: Your Honor, can we take into
4 consideration that somebody paid for my family to go on a
5 vacation and we gave this information to Bill back in May?

6 THE COURT: Ms. Littrice, I am sorry. I have not
7 yet authorized you to leave on that vacation.

8 THE DEFENDANT: But that's what -- he was supposed
9 to be asking for me, but he never came before you. That's
10 why --

11 THE COURT: I will see you on Monday morning at
12 9 o'clock for a status in this case.

13 THE DEFENDANT: But on Monday, that would be after
14 the date which I was supposed to leave.

15 THE COURT: 9 o'clock Monday morning. I will see
16 you then.

17 And I will expect at that time that you will
18 identify the lawyer who will be representing you or you will
19 explain your intentions --

20 THE DEFENDANT: With respect to --

21 THE COURT: Could I finish?

22 THE DEFENDANT: Sure.

23 THE COURT: -- or you will explain your intentions
24 to proceed *pro se*.

25 MR. MURPHY: Could you do it Friday morning?

1 THE COURT: With respect --

2 MR. MURPHY: I am sorry.

3 THE COURT: -- I have yet to see a motion for leave
4 to allow this lady to leave this jurisdiction. I was
5 reluctant to do that the last time such a motion was made.

6 She has had, in my memory, at least one vacation
7 since this indictment was pending.

8 MS. JOHNSON: One this year and one last year.

9 THE COURT: That's more than many lawyers have had.

10 I am not inclined to allow leave for yet another
11 vacation, particularly when we are days from the trial date.

12 I will see you on Monday at 9 o'clock.

13 MS. JOHNSON: Your Honor, I apologize, but I need
14 to ask, with regard to my witnesses, what is the status of
15 the trial date?

16 THE COURT: I will make a firm decision on that on
17 Monday as well.

18 MS. JOHNSON: Thank you, your Honor.

19 THE DEFENDANT: Your Honor, may I ask a question?

20 If I am to find a lawyer by Monday and Mr. Murphy
21 has come off of the case and I have to give you a definite
22 answer, how am I going to do that with, one, I have already
23 paid Mr. Murphy the funds that I have paid for my defense.

24 And also with, number two, all of my documents are
25 in his possession and Mr. Manning's, so that's not even

1 leaving me enough time to do so such. No lawyer is going to
2 want to take my case at this short time without having the
3 documents on hand or at least some sort of privy to the
4 information that's been presented here.

5 MR. MURPHY: Can I clear that up, Judge?

6 I haven't received any money in -- I can't tell you
7 in how long. I didn't do it on -- I didn't charge her on
8 purpose. But I do have an organized file in my office.

9 THE COURT: I was just going to comment. I am sure
10 Mr. Murphy can provide all the documents to any lawyer who
11 will be stepping in immediately.

12 THE DEFENDANT: Is there some forum set for me as a
13 defendant where I could challenge my attorney that's stepping
14 off of the case two weeks before the trial?

15 THE COURT: No. You have had that opportunity this
16 afternoon. You have had that opportunity for --

17 THE DEFENDANT: But he came up and said what he
18 wanted to say. So that was allowed to the Court. And he
19 wasn't being honest with you.

20 THE COURT: Ms. El Bey, you have been speaking for
21 more than an hour. You have had adequate opportunity to
22 explain your position here. I don't think -- I think there
23 has been an adequate forum in that regard here in this
24 courtroom this afternoon.

25 I will see you at 9:00 on Monday.

(An adjournment was taken at 1:13 p.m.)

* * * * *

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

/s/ Frances Ward August 7, 2009.
Official Court Reporter
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